

110TH CONGRESS
1ST SESSION

S. 2127

To provide assistance to families of miners involved in mining accidents.

IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 2007

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide assistance to families of miners involved in mining accidents.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mine Disaster Family
5 Assistance Act of 2007”.

6 **SEC. 2. ASSISTANCE BY THE FEDERAL MINE SAFETY AND**
7 **HEALTH ADMINISTRATION TO FAMILIES OF**
8 **MINERS INVOLVED IN MINING ACCIDENTS.**

9 Section 7 of the MINER Act (30 U.S.C. 801 note)
10 is amended to read as follows:

1 **“SEC. 7. MINE DISASTER FAMILY ASSISTANCE.**

2 “(a) ASSISTANCE BY THE FEDERAL MINE SAFETY
3 AND HEALTH ADMINISTRATION TO FAMILIES OF MINERS
4 INVOLVED IN MINING ACCIDENTS.—

5 “(1) IN GENERAL.—As soon as practicable
6 after being notified of a mining accident within the
7 United States involving a mine operator and result-
8 ing in the initiation of a mine emergency response
9 by the Mine Safety and Health Administration, the
10 Assistant Secretary of Labor for Mine Safety and
11 Health shall—

12 “(A) designate and publicize the name and
13 phone number of a director of family support
14 services who shall—

15 “(i) be an employee of the Mine Safe-
16 ty and Health Administration;

17 “(ii) be responsible for acting as a
18 point of contact within the Federal Gov-
19 ernment for the families of miners involved
20 in the accident and a liaison between the
21 mine operator and the families; and

22 “(iii) be part of any such mine emer-
23 gency response and, after consultation with
24 the Assistant Secretary, determine the ap-
25 propriate level of response concerning fam-

1 ily support services as authorized under
2 this Act; and

3 “(B) designate an independent nonprofit
4 organization, with experience in disasters and
5 posttrauma communication with families, which
6 shall have primary responsibility for coordi-
7 nating the emotional care and support of the
8 families of miners involved in the accident.

9 “(2) RESPONSIBILITIES OF THE MINE SAFETY
10 AND HEALTH ADMINISTRATION.—The Mine Safety
11 and Health Administration shall have primary Fed-
12 eral responsibility for facilitating the rescue and re-
13 covery of injured miners involved in an accident de-
14 scribed in paragraph (1). In the case of such an ac-
15 cident, the Administration shall serve as the primary
16 communicator with the operator, miners’ families,
17 the press, and the public.

18 “(3) RESPONSIBILITIES OF DESIGNATED ORGA-
19 NIZATION.—The organization designated for an acci-
20 dent under paragraph (1)(B) shall have the fol-
21 lowing responsibilities with respect to the families of
22 miners involved in the accident:

23 “(A) To provide mental health and coun-
24 seling services, in coordination with the disaster
25 response team of the mine operator involved.

1 “(B) To take such actions as may be nec-
 2 essary to provide an environment in which the
 3 families may gather and grieve in private.

4 “(C) To meet with the families who have
 5 traveled to the location of the accident, to con-
 6 tact the families unable to travel to such loca-
 7 tion, and to contact all affected families periodi-
 8 cally thereafter until such time as the organiza-
 9 tion, in consultation with the director of family
 10 support services designated for the accident
 11 under paragraph (1)(A), determines that fur-
 12 ther assistance is no longer needed.

13 “(D) To communicate with the families as
 14 to the roles of the organization, government
 15 agencies, and the mine operator involved with
 16 respect to the accident and the post-accident
 17 activities.

18 “(E) In cases where miners are fatally in-
 19 jured, to arrange a suitable memorial service, in
 20 consultation with the families.

21 “(4) MINER LISTS.—

22 “(A) REQUESTS FOR MINER LISTS.—

23 “(i) REQUESTS BY DIRECTOR OF FAM-
 24 ILY SUPPORT SERVICES.—In consultation
 25 with the lead Mine Safety and Health Ad-

1 ministration official designated for an acci-
2 dent and the mine operator, the director of
3 family support services designated for an
4 accident under paragraph (1)(A) shall re-
5 ceive, as soon as practicable, a list, which
6 is based on the best available information
7 at the time of the request, of the names of
8 the miners that were involved in the min-
9 ing accident.

10 “(ii) REQUESTS BY DESIGNATED OR-
11 GANIZATION.—The organization designated
12 for an accident under paragraph (1)(B)
13 may request from the mine operator in-
14 volved in the accident a list described in
15 clause (i).

16 “(B) USE OF INFORMATION.—The director
17 of family support services and the organization
18 may not release to any person information on
19 a list obtained under subparagraph (A) but may
20 provide information on the list about a miner to
21 the family of the miner to the extent that the
22 director of family support services or the orga-
23 nization considers appropriate.

24 “(5) CONTINUING RESPONSIBILITIES OF THE
25 MINE SAFETY AND HEALTH ADMINISTRATION.—In

1 the course of its rescue effort and investigation of an
2 accident described in paragraph (1), the Mine Safety
3 and Health Administration shall, to the maximum
4 extent practicable, ensure that the families of miners
5 involved in the accident—

6 “(A) are briefed, prior to any public brief-
7 ing, about the accident, its causes, the rescue
8 effort, its progress, and any other findings from
9 the investigation; and

10 “(B) are individually informed of and al-
11 lowed to attend any public hearings and public
12 meetings of the Mine Safety and Health Admin-
13 istration about the accident.

14 “(6) USE OF MINE OPERATOR RESOURCES.—To
15 the extent practicable, the organization designated
16 for an accident under paragraph (1)(B) shall coordi-
17 nate its activities with the mine operator involved in
18 the accident so that the resources of the mine oper-
19 ator can be used to the greatest extent possible to
20 carry out the organization’s responsibilities under
21 this subsection.

22 “(7) PROHIBITED ACTIONS.—

23 “(A) ACTIONS TO IMPEDE THE MINE
24 SAFETY AND HEALTH ADMINISTRATION.—No
25 person (including a State or political subdivi-

sion) may impede the ability of the Mine Safety and Health Administration (including the director of family support services designated for an accident under paragraph (1)(A)), or an organization designated for an accident under paragraph (1)(B), to carry out its responsibilities under this subsection or the ability of the families of miners involved in the accident to have contact with one another.

“(B) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving any mine operator in the United States, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney, including any associate, agent, employee, or other representative of an attorney, or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

“(C) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision of a State may prevent the employees, agents, or

1 volunteers of an organization designated for an
 2 accident under paragraph (1)(B) from pro-
 3 viding mental health and counseling services
 4 under paragraph (3)(A) in the 45 day period
 5 beginning on the date of the accident. The di-
 6 rector of family support services designated for
 7 the accident under paragraph (1)(A) may ex-
 8 tend such period for not to exceed an additional
 9 30 days if the director determines that the ex-
 10 tension is necessary to meet the needs of the
 11 families and if the State and local authorities
 12 are notified of the determination.

13 “(8) STATUTORY CONSTRUCTION.—Nothing in
 14 this subsection shall be construed as limiting the ac-
 15 tions that a mine operator may take or the obliga-
 16 tions that an operation may have, in providing as-
 17 sistance to miners involved in a mining accident.

18 “(b) MINE OPERATOR PLANS TO ADDRESS NEEDS
 19 OF FAMILIES OF MINERS INVOLVED IN MINING ACCI-
 20 DENTS.—

21 “(1) SUBMISSION OF PLANS.—Not later than 6
 22 months after the date of the enactment of the Mine
 23 Disaster Family Assistance Act of 2007, each oper-
 24 ator of a mine that is subject to the Federal Mine
 25 Safety and Health Act of 1977 (30 U.S.C. 801 et

1 seq.), shall submit to the Secretary a plan for ad-
2 dressing the needs of the families of miners involved
3 in any mining accident involving a mine of the oper-
4 ator and resulting in the initiation of a mine emer-
5 gency response by the Mine Safety and Health Ad-
6 ministration.

7 “(2) CONTENTS OF PLANS.—A plan to be sub-
8 mitted by a mine operator under paragraph (1) shall
9 include, at a minimum, the following:

10 “(A) A plan for establishing and publi-
11 cizing a reliable, toll-free telephone number, and
12 for providing appropriately trained staff, to
13 handle calls from the families of the miners.

14 “(B) A process for notifying the families of
15 the miners, before providing any public notice
16 of the names of the miners, either by utilizing
17 the services of the organization designated for
18 the accident under subsection (a)(1)(B) or the
19 services of other suitably trained individuals.

20 “(C) An assurance that the notice de-
21 scribed in subparagraph (B) will be provided to
22 the family of a miner as soon as the mine oper-
23 ator has verified that the miner was involved in
24 an accident (whether or not the names of all of

1 the miners have been verified) and, to the ex-
2 tent practicable, in person.

3 “(D) An assurance that the mine operator
4 will provide to the director of family support
5 services designated for the accident under sub-
6 section (a)(1)(A), and to the organization des-
7 ignated for the accident under subsection
8 (a)(1)(B), immediately upon request, a list
9 (which is based on the best available informa-
10 tion at the time of the request) of the names
11 of the miners, involved in the accident whether
12 or not such names have been verified), and will
13 periodically update the list.

14 “(E) An assurance that the family of each
15 miner will be consulted about the disposition of
16 all remains and personal effects of the miner
17 within the control of the mine operator.

18 “(F) An assurance that if requested by the
19 family of a miner, any possession of the miner
20 within the control of the mine operator (regard-
21 less of its condition) will be returned to the
22 family unless the possession is needed for the
23 accident investigation or any criminal investiga-
24 tion.

1 “(G) An assurance that the family of each
2 miner will be consulted about construction by
3 the mine operator of any monument to the min-
4 ers, including any inscription on the monument.

5 “(H) An assurance that the mine operator
6 will work with any organization designated
7 under subsection (a)(1)(B) on an ongoing basis
8 to ensure that families of miners receive an ap-
9 propriate level of services and assistance fol-
10 lowing each accident.

11 “(I) An assurance that the mine operator
12 will provide reasonable compensation to any or-
13 ganization designated under subsection
14 (a)(1)(B) for services provided by the organiza-
15 tion.

16 “(J) An assurance that the mine operator
17 will assist the family of a miner in traveling to
18 the location of the accident and provide for the
19 physical care of the family while the family is
20 staying at such location.

21 “(K) An assurance that the mine operator
22 will commit sufficient resources to carry out the
23 plan.

24 “(L) An assurance that the mine operator
25 will provide adequate training to the employees

1 and agents of the mine operator to meet the
2 needs of survivors and family members fol-
3 lowing a mining accident.

4 “(M) An assurance that, in the case of an
5 accident in which the Mine Safety and Health
6 Administration conducts a public hearing, brief-
7 ing, or comparable proceeding the mine oper-
8 ator, in consultation with the Mine Safety and
9 Health Administration, will ensure that the pro-
10 ceeding is made available simultaneously by
11 electronic means at a location open to public in
12 the city where the accident occurred.

13 “(3) CERTIFICATE REQUIREMENT.—After the
14 date that is 6 months after the date of the enact-
15 ment of the Mine Disaster Family Assistance Act of
16 2007, the Secretary may not approve any plan or
17 any modification of a plan that is required by law
18 to be submitted to the Mine Safety and Health Ad-
19 ministration for any mine, including emergency re-
20 sponse plans, roof control plans, ventilation plans,
21 training plans, respirable dust control plans, shaft
22 and slope sinking plans, and petitions for modifica-
23 tions, unless the applicant has included as part of
24 such a request a plan that meets the requirements
25 of paragraph (2) or has such a plan previously ap-

1 proved by the Secretary on file with such Adminis-
2 tration.

3 “(4) LIMITATION ON LIABILITY.—A mine oper-
4 ator shall not be liable for damages in any action
5 brought in a Federal or State court arising out of
6 the performance of the operator in preparing or pro-
7 viding a miner list pursuant to a plan submitted by
8 the mine operator under paragraph (2), unless such
9 liability was caused by conduct of the operator which
10 was grossly negligent or which constituted inten-
11 tional misconduct.

12 “(5) STATUTORY CONSTRUCTION.—Nothing in
13 this section shall be construed as limiting the actions
14 that a mine operator may take or the obligations
15 that an operation may have, in providing assistance
16 to miners involved in a mining accident.

17 “(c) ESTABLISHMENT OF TASK FORCE.—

18 “(1) ESTABLISHMENT.—The Secretary, in co-
19 operation with the Bureau of Land Management,
20 the Federal Emergency Management Agency, the
21 American Red Cross, mine operators (including op-
22 erators of smaller mines), and families which have
23 been involved in mining accidents shall establish a
24 task force consisting of representatives of such enti-
25 ties and families, representatives of miners, and rep-

1 representatives of such other entities as the Secretary
2 determines appropriate.

3 “(2) GUIDELINES AND RECOMMENDATIONS.—
4 The task force established pursuant to paragraph
5 (1) shall develop—

6 “(A) guidelines to assist mine operators in
7 responding to mining accidents;

8 “(B) recommendations on methods to en-
9 sure that attorneys and representatives of
10 media organizations do not intrude during the
11 rescue and recovery efforts on the privacy of
12 families of miners involved in a mining acci-
13 dent;

14 “(C) recommendations on methods to en-
15 sure that the families of miners involved in a
16 mining accident who are not citizens of the
17 United States receive appropriate assistance;

18 “(D) recommendations on methods to en-
19 sure that State mental health licensing laws do
20 not act to prevent out-of-state mental health
21 workers from working at the site of a mining
22 accident or other related sites;

23 “(E) recommendations on methods to im-
24 prove the timeliness of the notification provided
25 by mine operators to the families of miners in-

1 volved in a mining accident, including the steps
 2 that operators would have to take to ensure
 3 that an accurate list of miners potentially in-
 4 volved in an accident would be available within
 5 1 hour of the accident; and

6 “(F) recommendations on the appropriate
 7 role for families of miners in any official Mine
 8 Safety and Health Administration investigation,
 9 including the appropriate level of access to in-
 10 formation used to develop the final report.

11 “(3) REPORT.—Not later than 1 year after the
 12 date of enactment of this Act, the Secretary shall
 13 submit to Congress a report containing the model
 14 plan and recommendations developed by the task
 15 force under paragraph (2).

16 “(d) DEFINITIONS.—In this section:

17 “(1) MINER.—The term ‘miner’ means any in-
 18 dividual working in a coal or other mine, as defined
 19 in the Federal Mine Safety and Health Act of 1977
 20 (30 U.S.C. 801 et seq.).

21 “(2) MINING ACCIDENT.—The term ‘mining ac-
 22 cident’ means any mine disaster, regardless of its
 23 cause or suspected cause that results in the initi-
 24 ation of a mine emergency response by the Mine
 25 Safety and Health Administration.

1 “(3) OPERATOR.—The term ‘operator’ means
2 any owner, lessee, or other person who operates,
3 controls, or supervises a coal or other mine or any
4 independent contractor performing services or con-
5 struction at such time, as defined in the Federal
6 Mine Safety and Health Act of 1977 (30 U.S.C. 801
7 et seq.).

8 “(4) SECRETARY.—The term ‘Secretary’ means
9 the Secretary of Labor.”.

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